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United States of America

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,) NO. CV 09-2398 RGK (RZx)
15)
Plaintiff,) (Revised proposed)
16) **ORDER: INTERIM DISTRIBUTION**
v.) **PLAN FOR SEIZED LIQUID ASSETS**
17) **AND PERMITTING USE OF UP TO**
\$6,874,561.25 IN FUNDS FROM SIX) **\$16,500 IN SEIZED FUNDS FOR**
18 WELLS FARGO BANK ACCOUNTS, et) **INTERIM AND FINAL DISTRIBUTION**
al.,) **MAILING AND RELATED EXPENSES**
19)
Defendants.) DATE: March 7, 2011
20) TIME: 9:00 a.m.
COURTROOM 850

21 The Court, having reviewed the government's Motion for an
22 Order Approving Interim Distribution of a Portion of the
23 Defendant Seized Assets on a Pro-rata Basis and its supporting
24 documents ("Interim Distribution Motion"), and its Supplemental
25 Memorandum Regarding Revised Proposed Interim Distribution Order
26 Permitting Use of up to \$16,500 in Seized Funds for Mailing and
27 Related Expenses of Distribution, and having reviewed any
28

opposing papers or replies thereto that may have been filed,
hereby ORDERS as follows:

1. The government has demonstrated to the Court's satisfaction that it is in the interests of justice for this Court to approve the release of \$9,216,851.32 to the 1,826 Best Diamond Funding investors whose losses are final (as described in the chart on p. 4 of the Interim Distribution Motion) in the exercise of this Court's *in rem* jurisdiction over the defendant assets.

2. The United States Marshals Service ("USMS") and United States Attorney's Office ("USAO") shall cause to be paid to each person or entity whose contract numbers are listed on the attached 70-page Exhibit the amounts listed under the column "*1st Distribution Amount (32.65%)*" from a portion of the defendant assets in this case (the "Interim payment"). The required payments shall be made from among the following defendant assets in this case:

a. The defendant \$6,874,561.25 in Funds from Six Wells Fargo Bank Accounts, seized on or about October 31, 2008;

b. The defendant \$1,147,051.51 in Funds from Six Bank of America Accounts, seized on or about October 31, 2008;

c. The defendant \$3,978,403.00 U.S. Currency seized on October 29, 2008 during the execution of a federal search warrant at Best Diamond Funding and Libreria del Exito Mundial, 6422 Pacific Blvd., Huntington Park, California;

d. The defendant \$22,840.00 in U.S. Currency seized on December 16, 2008; and/or

e. The defendant \$6,400 in proceeds from 64 AMEX

1 Travelers Checks valued at \$100 each.

2 The government shall have complete discretion to choose the
3 source of each Interim payment from any or all of the defendant
4 assets above.

5 3. The government has separately filed under seal, on the
6 same day its Interim Distribution Motion was filed, a document
7 stating the full name, address, and other identifying information
8 for all of the investors listed on the 70-page Exhibit attached
9 hereto (the "Sealed Interim Distribution List"). Counsel for the
10 government is hereby authorized to provide copies of the Sealed
11 Interim Distribution List to USMS, to a contractor authorized
12 herein, to the Special Master and his staff, and to the United
13 States Probation Office (in connection with criminal restitution
14 owed by Milton Retana).

15 4. The payments described in paragraph 2 above may be
16 executed by a qualified third party contractor to be chosen by
17 the USAO for the purpose of issuing and mailing checks. The
18 contractor shall pay the Interim payments by a paper check
19 payable to the investor to whom the contract number on the
20 attached Exhibit corresponds. The checks shall be mailed to the
21 addresses listed on the Sealed Interim Distribution List.
22 *Provided*, should the Special Master appointed in this action or
23 counsel for the government learn that the address of a particular
24 investor has changed, the Interim payment check shall be mailed
25 to the changed address as directed by counsel for the government.
26 The Interim payments shall be made as soon as practicable in
27 light of the logistics involved in ordering, approving, and
28 issuing the required number of checks. The USMS may pay, as

1 directed by the USAO, up to \$16,500.00 from the defendant assets
2 in this case to the contractor for the purpose of reasonable
3 costs and fees associated with paying and mailing funds as
4 required by this Order and any future distribution Order the
5 Court may enter.

6 5. USMS shall cause to be paid via the contractor to the
7 investors the interest actually accrued since the time of seizure
8 on the assets released pursuant to this Order. The USMS may pay
9 the interest separately from the Interim payment. If the
10 defendant assets being used to pay the Interim payments have
11 accrued interest at different rates, the USMS has the discretion
12 to aggregate the total amount of interest earned and divide it
13 among the investors according to the amounts of their Interim
14 payments. *Provided*, if USMS or counsel for the government
15 concludes that paying interest in an interim distribution would
16 be unfair to the interests of the approximately 400 unresolved
17 investors, interest payments may be deferred until the final
18 distribution in this matter.

19 6. The USAO and USMS shall require the contractor to track
20 the success and failure of the Interim payments. If any checks
21 paid pursuant to this Order are returned by the post office, the
22 contractor shall be directed to attempt to locate the investor's
23 correct address and pay and mail the funds again to the
24 designated investor upon direction of counsel for the government.

25 7. The defendant assets comprising each Interim payment
26 are provisionally dismissed from this case upon entry of this
27 Order, pursuant to Fed. R. Civ. P. 41(a). *Provided*, if
28 government counsel certifies to the Court that the government or

1 its contractor has been unable to locate and pay particular
2 investors listed on the attached Exhibit, the court may restore
3 the amounts of their corresponding Interim payments to the
4 defendant assets in this case so that those funds may be part of
5 a future distribution or forfeiture.

6 IT IS SO ORDERED.

7 DATED: _____
8 The Honorable R. Gary Klausner
UNITED STATES DISTRICT JUDGE

9 PRESENTED BY:

10 ANDRÉ BIROTTE JR.
11 United States Attorney

12 _____/s/
13 MONICA E. TAIT
14 Assistant United States Attorney